

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:

42221

Date filed:

10-16-2017

State Admin Rule Filing Id:

Time filed:

	Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R 156	- 1	-
Changed to Admin. Code Ref. (R no.):	R	-	-

1. **Agency:** Commerce/Division of Occupational and Professional Licensing

Room no.:

Building: Heber M. Wells Building

Street address 1: 160 East 300 South

Street address 2:

City, state, zip: Salt Lake City UT 84111-2316

Mailing address 1: PO Box 146741

Mailing address 2:

City, state, zip: Salt Lake City UT 84114-6741

Contact person(s):

Name:	Phone:	Fax:	E-mail:
W. Ray Walker	801-530-6256	801-530-6511	raywalker@utah.gov
Larry Marx	801-530-6254	801-530-6511	lmarx@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2. **Title of rule or section (catchline):**
General Rule of the Division of Occupational and Professional Licensing
3. **Type of notice:**
New ___; Amendment XXX; Repeal ___; Repeal and Reenact ___
4. **Purpose of the rule or reason for the change:**
The purpose of this filing is to amend DOPL's (Division of Occupational and Professional Licensing) umbrella rule to: (1) implement provisions of 2017 legislation, to include: (a) H.B. 287, Cosmetology Licensing Act Amendments; (b) S.B. 74, Medical Interpreter Act Amendments; (c) H.B. 128, Health Care Debt Collection Amendments; (d) H.B. 142, Administration of Anesthesia Amendments; and (e) H.B. 154, Telehealth Amendments; (2) make clarifying revisions; and (3) make technical revisions.
5. **This change is a response to comments from the Administrative Rules Review Committee.**
No XXX; Yes ___

6. Summary of the rule or change:

See attachment for summary of rule changes.

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No ☐; Yes ☒ XXX

R156-1 will have to be reprinted at an approximate cost of \$75. The clarification and technical changes will have no cost or savings impact. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation, or will be described in separate rule filings more fully implementing the new regulation, or both.

B) Local government:

Affected: No ☒ XXXX; Yes ☐

This filing pertains to DOPL and its licensees and as such does not affect or impact local government. Local governments neither enforce the listed violations, nor will they be affected by these application process clarifications.

C) Small businesses ("small business" means a business employing fewer than 50 persons)

Affected: No ☒ XXXX; Yes ☐

This filing pertains to general provisions of DOPL and its licensees. The clarification and technical changes will have no cost or savings impact. As a result, the Division estimates that they will have no impact on small business. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation, or will be described in separate rule filings more fully implementing the new regulation, or both.

D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Affected: No ☐; Yes ☒ XXX

See attachment for other persons costs/savings

8. Compliance costs for affected persons:

This filing pertains to general provisions of DOPL and its licensees. The clarification and technical changes will have no cost or savings impact. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation, or will be described in separate rule filings more fully implementing the new regulation, or both.

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

The amendments to R156-1 are proposed to: (1) carry out the mandate of H.B. 287 (2017), Cosmetology Licensing Act amendments, S.B. 74, Medical Interpreter Act amendments, H.B. 128, Health Care Debt Collection amendments, H.B. 142, Administration of Anesthesia amendments and H.B. 154, Telehealth amendments; (2) make clarifying revisions and (3) make technical revisions. The clarifying revisions and the technical revisions have no fiscal or non-fiscal impacts. The R156-1-308a(1) amendments establish two-year renewal cycles for licensing five new categories of licensees and changes the "CPA Firm" renewal date from September 30 to December 31. The new categories of licensees will have a renewal cycle similar to other licensees in the same field and there will be no adverse fiscal impact. The three-month change to the renewal cycle of CPA Firms will have a negligible impact, and only in the first year of the change. The R156-1-308a(2) amendments have no adverse fiscal impact by establishing a three-year license renewal cycle for certain medical language interpreters. The R156-1-308d amendments will have no adverse fiscal impact to small businesses by granting continuing education credit to certain licensees providing volunteer service. The R156-1-308f amendment clarifies that the concept of conditional licensure may include the license of an applicant that is pending the completion of an inspection, and will have no adverse fiscal impact to small businesses. The R156-1-501 amendment clarifies certain conduct as constituting unprofessional conduct, and will have no adverse fiscal impact to small businesses. The R156-1-502 amendment provides a two-tier fine schedule for violations of Subsection 58-1-508(2) and will impact only those health care providers that fail to follow certain health care claims practices. This would impact only violators and would not have an adverse fiscal impact on small business health care providers as a whole. The adoption of newly framed rules for providers of telehealth services under R156-1-601 will have no fiscal impact beyond the fiscal impact and analysis of the Legislature regarding H.B. 154 (2017) for providers offering telehealth services.

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Giani, Executive Director

- 10 This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.**

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

Subsection 58-1-106(1)(a)

Section 58-1-308

Subsection 58-1-501(2)

- 11 This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; *if none, leave blank*):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)		
Publisher		
Date Issued		
Issue, or version		
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference		
Action: Adds, updates, or removes		

(If this rule incorporates more than two items by reference, please attach additional pages)

- 12 The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):

12/01/2017

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):

At (hh:mm AM/PM):

At (place):

11/16/2017

11:30 AM

160 East 300 South, Conference Room
464, Salt Lake City, Utah

- 13 This rule change may become effective on (mm/dd/yyyy):**

12/08/2017

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

- 14 Indexing information -- keywords** (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency:

diversion programs

licensing

supervision

evidentiary restrictions


- 15 Attach an RTF document containing the text of this rule change**
(filename):

R156-1.pro

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or
designee, and title:

A handwritten signature in black ink, appearing to be "M. S. [unclear]", written over a dotted grid background.

Date

(mm/dd/yyyy)

:10/16/2017

cRules v. 2: ProposedRule.doc 09/03/2009 (<http://www.rules.utah.gov/agencyresources/forms/ProposedRule.doc>)

R156-1 General Rule of the Division of Occupational and Professional Licensing

Box 6 - Summary of the rule or change:

Subsection R156-1-102(1): This filing clarifies that a license that has been placed on probation subject to terms and conditions is not "active and in good standing."

Subsection R156-1-308a(1): First, this filing establishes two-year renewal dates for: (1) "hair designer", hair designer instructor", and "hair designer school license" classifications (H.B. 287); (2) "restricted associate osteopathic physician" license classification (H.B. 396); and (3) "restricted associate physician" license classifications (H.B. 396). Second, this filing changes the September 30 renewal dates for "CPA Firm" licensees and "Certified Public Accountant" licensees to December 31.

Subsection R156-1-308a(2): This filing establishes a three-year renewal cycle date for tier 1 certified medical language interpreters and tier 2 certified medical language interpreters. (S.B. 74).

Subsection R156-1-308d. This filing: (1) establishes the parameters within which the division will grant continuing education credit to a licensee for volunteering as a subject-matter expert in the development of exams; and (2) clarifies that under Section 58-13-3, a health care professional licensee may fulfill up to 15% of the licensee's continuing education requirements by providing volunteer services at a qualified location.

Section R156-1-308f: This filing clarifies that the concept of conditional licensure may include the license of an applicant that is pending the completion of an inspection.

Subsection R156-1-501: (1) In accordance with H.B. 128 (2017), this filing designates as unprofessional conduct failing as a health care provider to follow the health care claims practices of Section 31A-26-301.5(4), in violation of Section 58-1-508(2); and (2) In accordance with Subsection 26-59-104(1) enacted by H.B. 154 (2017), this filing designates as unprofessional conduct failing, as a provider offering telehealth services, to comply with any term, condition, or requirement contained in Section 26-60-103 or new Section R156-1-601.

Subsection R156-1-502: In accordance with H.B. 128 (2017), this filing establishes the following fine schedule for violating Section 58-1-508(2) (failing as a health care provider to follow the health care claims practices of Section 31A-26-301.5(4)): First offense \$250, second offense \$500.

Section R156-1-601: In accordance with Section 26-60-103 and Subsection 26-60-104(1) enacted by H.B. 154 (2017), the Division in collaboration with the Physicians Licensing Board proposes these amendments to clarify the standards required from a provider offering telehealth services, as follows: Subsection (1) incorporates certain definitions regarding telehealth from the Telehealth Act (Title 26, Chapter 60), and includes within the definition of "provider" an unlicensed individual who is required to be licensed, or who is exempt from licensure. Subsection (2) clarifies scope of practice, including requiring the provider to establish a provider-patient relationship. Subsection (3) requires the provider to obtain a patient's signed informed consent containing details and disclosures specific to telehealth services and technologies. Subsection (4) clarifies that treatment based solely on an online questionnaire does not constitute an acceptable standard of care. Subsection (5) clarifies that a provider may only issue prescription drug orders for a telehealth patient in compliance with Title 58, Chapter 82, Electronic Prescribing Act, and only after establishing a provider-patient relationship. Subsection (6) clarifies that a provider offering telehealth services must generate and maintain medical records for the patient in compliance with applicable state and federal laws, rules, and regulations, including HIPAA (Health Insurance Portability and Accountability Act) and HITECH (Health Information Technology for Economic and Clinical Health Act); and must make those medical records accessible to other providers and to the patient in accordance with applicable laws, rules, and regulations.

Box 7D Other Persons Costs/Savings:

This filing pertains to general provisions of DOPL and its licensees. The clarification and technical changes will have no cost or savings impact, because they only make formatting changes and add clarification to practices already taking place in the industry. Any cost or saving impact of new licensure regulation was addressed in the referenced legislation,

or will be described in separate rule filings more fully implementing the new regulation, or both.

Subsection R156-1-308d(1). Some savings to individual licensees may result from the proposed amendments to this Section, under which the Division clarifies how and when it may grant continuing education credit to a licensee for volunteering as a subject-matter expert in the development of exams. Licensees who choose to volunteer by serving as a subject matter expert may save on the cost of attendance at one or more continuing education courses. However, the amount of the savings cannot be estimated, as it will vary significantly from licensee to licensee depending on a number of widely ranging factors, such as the number and type of volunteer services provided, any individual ratios for service hours decided upon by the licensing board over the licensee's profession, and the number and type of credit hours required from the licensee to maintain that particular license.

Subsection R156-1-502: The Division estimates that there will be no cost or savings to other persons from these proposed amendments, over and above the impact from the underlying legislation, because the amendments establish a fine schedule for unprofessional conduct in accordance with H.B. 128 (2017). Costs or savings to other persons were included in the Legislature's consideration of H.B. 128, which determined that enactment of the legislation "could result in 24 licensees annually paying a \$500 fine for total costs of \$12,000". The fiscal analysis is available from the Utah State Legislature website at <https://le.utah.gov/~2017/bills/static/HB0128.html>. This conclusion is supported by the fact that any impact from these amendments cannot and should not be scaled to all other persons, as the fines will not affect the majority of those who meet the new professional standards and will never be fined. In other words, the impact of the fines will never be uniformly felt across the industry. Additionally, per the Division's review a licensee sanctioned for unprofessional conduct is unlikely to be fined again in succeeding years. In short, after conducting a thorough analysis, the Division has determined that these proposed amendments will not result in a measurable fiscal impact to other persons.

Section R156-1-601: These amendments define and clarify the standards required from a provider offering telehealth services under Title 58, in accordance with Section 26-60-103 and Subsection 26-60-104(1) enacted by H.B. 154 (2017). No additional costs or savings are anticipated to other persons from these proposed rules, as they merely clarify how existing health care standards and practices apply to a telehealth setting for Title 58 providers offering telehealth services, and allow the Division to enforce these standards for Title 58 providers, as required by the underlying legislation. Any additional costs or savings to other persons result from H.B. 154, and were included in the Legislature's consideration of this bill. A copy of this analyses is available from the Utah State Legislature website at <https://le.utah.gov/~2017/bills/static/HB0154.html>.

R156. Commerce, Occupational and Professional Licensing.

R156-1. General Rule of the Division of Occupational and Professional Licensing.

R156-1-102. Definitions.

In addition to the definitions in Title 58, as used in Title 58 or this rule:

(1) "Active and in good standing" means a licensure status which allows the licensee full privileges to engage in the practice of the occupation or profession subject to the scope of the licensee's license classification. A license that has been placed on probation subject to terms and conditions is not active and in good standing.

(2) "Aggravating circumstances" means any consideration or factors that may justify an increase in the severity of an action to be imposed upon an applicant or licensee. Aggravating circumstances include:

(a) prior record of disciplinary action, unlawful conduct, or unprofessional conduct;

(b) dishonest or selfish motive;

(c) pattern of misconduct;

(d) multiple offenses;

(e) obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the Division;

(f) submission of false evidence, false statements or other deceptive practices during the disciplinary process including creating, destroying or altering records after an investigation has begun;

(g) refusal to acknowledge the wrongful nature of the misconduct involved, either to the client or to the Division;

(h) vulnerability of the victim;

(i) lack of good faith to make restitution or to rectify the consequences of the misconduct involved;

(j) illegal conduct, including the use of controlled substances; and

(k) intimidation or threats of withholding clients' records or other detrimental consequences if the client reports or testifies regarding the unprofessional or unlawful conduct.

(3) "Cancel" or "cancellation" means nondisciplinary action by the Division to rescind, repeal, annul, or void a license:

(a) issued to a licensee in error, such as where a license is issued to an applicant:

(i) whose payment of the required application fee is dishonored when presented for payment;

(ii) who has been issued a conditional license pending a criminal background check and the check cannot be completed due to the applicant's failure to resolve an outstanding warrant or

to submit acceptable fingerprint cards;

(iii) who has been issued the wrong classification of licensure; or

(iv) due to any other error in issuing a license; or

(b) not issued erroneously, but where subsequently the licensee fails to maintain the ongoing qualifications for licensure, when such failure is not otherwise defined as unprofessional or unlawful conduct.

(4) "Charges" means the acts or omissions alleged to constitute either unprofessional or unlawful conduct or both by a licensee, which serve as the basis to consider a licensee for inclusion in the diversion program authorized in Section 58-1-404.

(5) "Conditional licensure" means an interim non-adverse licensure action, in which a license is issued to an applicant for initial, renewal, or reinstatement of licensure on a conditional basis in accordance with Section R156-1-308f, while an investigation, inspection, or audit is pending.

(6) "Denial of licensure" means action by the Division refusing to issue a license to an applicant for initial licensure, renewal of licensure, reinstatement of licensure or relicensure.

(7)(a) "Disciplinary action" means adverse licensure action by the Division under the authority of Subsections 58-1-401(2)(a) through (2)(b).

(b) "Disciplinary action", as used in Subsection 58-1-401(5), shall not be construed to mean an adverse licensure action taken in response to an application for licensure. Rather, as used in Subsection 58-1-401(5), it shall be construed to mean an adverse action initiated by the Division.

(8) "Diversion agreement" means a formal written agreement between a licensee, the Division, and a diversion committee, outlining the terms and conditions with which a licensee must comply as a condition of entering in and remaining under the diversion program authorized in Section 58-1-404.

(9) "Diversion committees" mean diversion advisory committees authorized by Subsection 58-1-404(2)(a)(i) and created under Subsection R156-1-404a.

(10) "Duplicate license" means a license reissued to replace a license which has been lost, stolen, or mutilated.

(11) "Emergency review committees" mean emergency adjudicative proceedings review committees created by the Division under the authority of Subsection 58-1-108(2).

(12) "Expire" or "expiration" means the automatic termination of a license which occurs:

(a) at the expiration date shown upon a license if the licensee fails to renew the license before the expiration date;

or

- (b) prior to the expiration date shown on the license:
- (i) upon the death of a licensee who is a natural person;
- (ii) upon the dissolution of a licensee who is a partnership, corporation, or other business entity; or
- (iii) upon the issuance of a new license which supersedes an old license, including a license which:
 - (A) replaces a temporary license;
 - (B) replaces a student or other interim license which is limited to one or more renewals or other renewal limitation; or
 - (C) is issued to a licensee in an upgraded classification permitting the licensee to engage in a broader scope of practice in the licensed occupation or profession.

(13) "Inactive" or "inactivation" means action by the Division to place a license on inactive status in accordance with Sections 58-1-305 and R156-1-305.

(14) "Investigative subpoena authority" means, except as otherwise specified in writing by the director, the Division regulatory and compliance officer, or if the Division regulatory and compliance officer is unable to so serve for any reason, a Department administrative law judge, or if both the Division regulatory and compliance officer and a Department administrative law judge are unable to so serve for any reason, an alternate designated by the director in writing.

(15) "License" means a right or privilege to engage in the practice of a regulated occupation or profession as a licensee.

(16) "Limit" or "limitation" means nondisciplinary action placing either terms and conditions or restrictions or both upon a license:

- (a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or
- (b) issued to a licensee in place of the licensee's current license or disciplinary status.

(17) "Mitigating circumstances" means any consideration or factors that may justify a reduction in the severity of an action to be imposed upon an applicant or licensee.

- (a) Mitigating circumstances include:
 - (i) absence of prior record of disciplinary action, unlawful conduct or unprofessional conduct;
 - (ii) personal, mental or emotional problems provided such problems have not posed a risk to the health, safety or welfare of the public or clients served such as drug or alcohol abuse while engaged in work situations or similar situations where the licensee or applicant should know that they should refrain from engaging in activities that may pose such a risk;
 - (iii) timely and good faith effort to make restitution or rectify the consequences of the misconduct involved;

(iv) full and free disclosure to the client or Division prior to the discovery of any misconduct;

(v) inexperience in the practice of the occupation and profession provided such inexperience is not the result of failure to obtain appropriate education or consultation that the applicant or licensee should have known they should obtain prior to beginning work on a particular matter;

(vi) imposition of other penalties or sanctions if the other penalties and sanctions have alleviated threats to the public health, safety, and welfare; and

(vii) remorse.

(b) The following factors may not be considered as mitigating circumstances:

(i) forced or compelled restitution;

(ii) withdrawal of complaint by client or other affected persons;

(iii) resignation prior to disciplinary proceedings;

(iv) failure of injured client to complain;

(v) complainant's recommendation as to sanction; and

(vi) in an informal disciplinary proceeding brought pursuant to Subsection 58-1-501(2)(c) or (d) or Subsections R156-1-501(1) through (5):

(A) argument that a prior proceeding was conducted unfairly, contrary to law, or in violation of due process or any other procedural safeguard;

(B) argument that a prior finding or sanction was contrary to the evidence or entered without due consideration of relevant evidence;

(C) argument that a respondent was not adequately represented by counsel in a prior proceeding; and

(D) argument or evidence that former statements of a respondent made in conjunction with a plea or settlement agreement are not, in fact, true.

(18) "Nondisciplinary action" means adverse licensure action by the Division under the authority of Subsections 58-1-401(1) or 58-1-401(2)(c) through (2)(d).

(19) "Peer committees" mean advisory peer committees to boards created by the legislature in Title 58 or by the Division under the authority of Subsection 58-1-203(1)(f).

(20) "Probation" means disciplinary action placing terms and conditions upon a license;

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(21) "Public reprimand" means disciplinary action to formally reprove or censure a licensee for unprofessional or

unlawful conduct, with the documentation of the action being classified as a public record.

(22) "Regulatory authority" as used in Subsection 58-1-501(2)(d) means any governmental entity who licenses, certifies, registers, or otherwise regulates persons subject to its jurisdiction, or who grants the right to practice before or otherwise do business with the governmental entity.

(23) "Reinstate" or "reinstatement" means to activate an expired license or to restore a license which is restricted, as defined in Subsection (26)(b), or is suspended, or placed on probation, to a lesser restrictive license or an active in good standing license.

(24) "Relicense" or "relicensure" means to license an applicant who has previously been revoked or has previously surrendered a license.

(25) "Remove or modify restrictions" means to remove or modify restrictions, as defined in Subsection (25)(a), placed on a license issued to an applicant for licensure.

(26) "Restrict" or "restriction" means disciplinary action qualifying or limiting the scope of a license:

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-304; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(27) "Revoke" or "revocation" means disciplinary action by the Division extinguishing a license.

(28) "Suspend" or "suspension" means disciplinary action by the Division removing the right to use a license for a period of time or indefinitely as indicated in the disciplinary order, with the possibility of subsequent reinstatement of the right to use the license.

(29) "Surrender" means voluntary action by a licensee giving back or returning to the Division in accordance with Section 58-1-306, all rights and privileges associated with a license issued to the licensee.

(30) "Temporary license" or "temporary licensure" means a license issued by the Division on a temporary basis to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-303.

(31) "Unprofessional conduct" as defined in Title 58 is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-1-[502] 501.

(32) "Warning or final disposition letters which do not constitute disciplinary action" as used in Subsection 58-1-108(3) mean letters which do not contain findings of fact or conclusions

of law and do not constitute a reprimand, but which may address any or all of the following:

- (a) Division concerns;
- (b) allegations upon which those concerns are based;
- (c) potential for administrative or judicial action; and
- (d) disposition of Division concerns.

R156-1-308a. Renewal Dates.

(1) The following standard two-year renewal cycle renewal dates are established by license classification in accordance with the Subsection 58-1-308(1):

TABLE
RENEWAL DATES

Acupuncturist	May 31	even years
Advanced Practice Registered Nurse	January 31	even years
Advanced Practice Registered Nurse-CRNA	January 31	even years
Architect	May 31	even years
Athlete Agent	September 30	even years
Athletic Trainer	May 31	odd years
Audiologist	May 31	odd years
Barber	September 30	odd years
Barber Apprentice	September 30	odd years
Barber School	September 30	odd years
Behavior Analyst and Assistant Behavior Analyst	September 30	even years
Behavior Specialist and Assistant Behavior Specialist	September 30	even years
Building Inspector	November 30	odd years
Burglar Alarm Security	March 31	odd years
C.P.A. Firm	[September 30] <u>December 31</u>	even years
Certified Court Reporter	May 31	even years
Certified Dietitian	September 30	even years
Certified Medical Language Interpreter	March 31	odd years
Certified Nurse Midwife	January 31	even years
Certified Public Accountant	[September 30] <u>December 31</u>	even years
Certified Social Worker	September 30	even years
Chiropractic Physician	May 31	even years
Clinical Mental Health Counselor	September 30	even years
Clinical Social Worker	September 30	even years
Construction Trades Instructor	November 30	odd years
Contractor	November 30	odd years

Controlled Substance License renewal	Attached to primary license	
Controlled Substance Precursor	May 31	odd years
Controlled Substance Handler	September 30	odd years
Cosmetologist/Barber	September 30	odd years
Cosmetologist/Barber Apprentice	September 30	odd years
Cosmetology/Barber School	September 30	odd years
Deception Detection	November 30	even years
Deception Detection Examiner,		
Deception Detection Intern,		
Deception Detection Administrator		
Dental Hygienist	May 31	even years
Dentist	May 31	even years
Direct-entry Midwife	September 30	odd years
Dispensing Medical Practitioner		
Advanced Practice Registered Nurse,		
Optometrist, Osteopathic Physician		
and Surgeon, Physician and Surgeon,		
Physician Assistant	September 30	odd years
Dispensing Medical Practitioner		
Clinic Pharmacy	September 30	odd years
Electrician		
Apprentice, Journeyman, Master,		
Residential Journeyman,		
Residential Master	November 30	even years
Electrologist	September 30	odd years
Electrology School	September 30	odd years
Elevator Mechanic	November 30	even years
Environmental Health Scientist	May 31	odd years
Esthetician	September 30	odd years
Esthetician Apprentice	September 30	odd years
Esthetics School	September 30	odd years
Factory Built Housing Dealer	September 30	even years
Funeral Service Director	May 31	even years
Funeral Service Establishment	May 31	even years
Genetic Counselor	September 30	even years
Hair Designer	<u>September 30</u>	<u>odd years</u>
Hair Designer Instructor	<u>September 30</u>	<u>odd years</u>
Hair Designer School	<u>September 30</u>	<u>odd years</u>
Health Facility Administrator	May 31	odd years
Hearing Instrument Specialist	September 30	even years
Internet Facilitator	September 30	odd years
Landscape Architect	May 31	even years
Licensed Advanced Substance		
Use Disorder Counselor	May 31	odd years
Licensed Practical Nurse	January 31	even years
Licensed Substance	May 31	odd years

Use Disorder Counselor	September 30	even years
Marriage and Family Therapist	May 31	odd years
Massage Apprentice	May 31	odd years
Massage Therapist	September 30	odd years
Master Esthetician	September 30	odd years
Master Esthetician Apprentice	March 31	odd years
Medication Aide Certified	March 31	odd years
Music Therapist	September 30	odd years
Nail Technologist	September 30	odd years
Nail Technologist Apprentice	September 30	odd years
Nail Technology School	May 31	even years
Naturopath/Naturopathic Physician	May 31	odd years
Occupational Therapist	May 31	odd years
Occupational Therapy Assistant	September 30	even years
Optometrist	May 31	even years
Osteopathic Physician and Surgeon, Online Prescriber, <u>Restricted Associate Osteopathic Physician</u>		
Outfitter/Hunting Guide	May 31	even years
Pharmacy Class A-B-C-D-E, Online Contract Pharmacy	September 30	odd years
Pharmacist	September 30	odd years
Pharmacy Technician	September 30	odd years
Physical Therapist	May 31	odd years
Physical Therapist Assistant	May 31	odd years
Physician Assistant	May 31	even years
Physician and Surgeon, Online Prescriber, <u>Restricted Associate Physician</u>	January 31	even years
Plumber		
Apprentice, Journeyman, Master, Residential Master, Residential Journeyman	November 30	even years
Podiatric Physician	September 30	even years
Pre Need Funeral Arrangement		
Sales Agent	May 31	even years
Private Probation Provider	May 31	odd years
Professional Engineer	March 31	odd years
Professional Geologist	March 31	odd years
Professional Land Surveyor	March 31	odd years
Professional Structural Engineer	March 31	odd years
Psychologist	September 30	even years
Radiologic Technologist, Radiology Practical Technician	May 31	odd years
Radiologist Assistant		
Recreational Therapy		
Therapeutic Recreation Technician, Therapeutic Recreation Specialist, Master Therapeutic		

Recreation Specialist	May 31	odd years
Registered Nurse	January 31	odd years
Respiratory Care Practitioner	September 30	even years
Security Personnel	November 30	even years
Social Service Worker	September 30	even years
Speech-Language Pathologist	May 31	odd years
State Certified Commercial Interior Designer	March 31	odd years
Veterinarian	September 30	even years
Vocational Rehabilitation Counselor	March 31	odd years

(2) The following non-standard renewal terms and renewal or extension cycles are established by license classification in accordance with Subsection 58-1-308(1) and in accordance with specific requirements of the license:

(a) Associate Clinical Mental Health Counselor licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division and the Board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.

(b) Associate Marriage and Family Therapist licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(c) Certified Advanced Substance Use Disorder Counselor licenses shall be issued for a period of four years and may be extended if the licensee presents satisfactory evidence to the Division and Board that reasonable progress is being made toward completing the required hours of supervised experience necessary for the next level of licensure.

(d) Certified Advanced Substance Use Disorder Counselor Intern licenses shall be issued for a period of six months or until the examination is passed whichever occurs first.

(e) Certified Medical Language Interpreter Tier 1 and 2 licenses shall be issued for a period of three years and may be renewed. The initial renewal date of March 31, 2017, is established for these license classifications, subject to the provisions of Subsection R156-1-308c(7) to establish the length of the initial license period.

(e)f Certified Substance Use Disorder Counselor licenses shall be issued for a period of two years and may be extended if the licensee presents satisfactory evidence to the Division and Board that reasonable progress is being made toward completing the required hours of supervised experience necessary for the next level of licensure.

([f]g) Certified Social Worker Intern licenses shall be issued for a period of six months or until the examination is passed whichever occurs first.

([g]h) Certified Substance Use Disorder Counselor Intern licenses shall be issued for a period of six months or until the examination is passed, whichever occurs first.

([h]i) Funeral Service Intern licenses shall be issued for a two year term and may be extended for an additional two year term if the licensee presents satisfactory evidence to the Division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.

([i]j) Hearing Instrument Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division and the Board that reasonable progress is being made toward passing the qualifying examination, but a circumstance arose beyond the control of the licensee, to prevent the completion of the examination process.

([j]k) Pharmacy technician trainee licenses shall be issued for a period of two years and may be extended if the licensee presents satisfactory evidence to the Division and the Board that reasonable progress is being made toward completing the requirements necessary for the next level of licensure.

([k]l) Psychology Resident licenses shall be issued for a two year term and may be extended if the licensee presents satisfactory evidence to the Division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

([l]m) Type I Foreign Trained Physician-Educator licenses will be issued initially for a one-year term and thereafter renewed every two years following issuance.

([m]n) Type II Foreign Trained Physician-Educator licenses will be issued initially for an annual basis and thereafter renewed annually up to four times following issuance if the licensee continues to satisfy the requirements described in Subsection 58-67-302.7(3) and completes the required continuing education requirements established under Section 58-67-303.

**R156-1-308d. Waiver of Continuing Education Requirements -
Credit for Volunteer Service~~[Renewal Requirements]~~.**

(1) (a) In accordance with Subsection 58-1-203(1)(g), a licensee may request a waiver of any continuing education requirement established under this title or an extension of time to complete any requirement on the basis that the licensee was unable to complete the requirement due to a medical or related condition, humanitarian or ecclesiastical services, extended presence in a geographical area where continuing education is not available, etc.

(b) A request must be submitted no later than the deadline for completing any continuing education requirement.

(c) A licensee submitting a request has the burden of proof and must document the reason for the request to the satisfaction of the Division.

(d) A request shall include the beginning and ending dates during which the licensee was unable to complete the continuing education requirement and a detailed explanation of the reason why. The explanation shall include the extent and duration of the impediment, extent to which the licensee continued to be engaged in practice of his profession, the nature of the medical condition, the location and nature of the humanitarian services, the geographical area where continuing education is not available, etc.

(e) The Division may require that a specified number of continuing education hours, courses, or both, be obtained prior to reentering the practice of the profession or within a specified period of time after reentering the practice of the profession, as recommended by the appropriate board, in order to assure competent practice.

(f) While a licensee may receive a waiver from meeting the minimum continuing education requirements, the licensee shall not be exempted from the requirements of Subsection 58-1-501(2)(i), which requires that the licensee provide services within the competency, abilities and education of the licensee. If a licensee cannot competently provide services, the waiver of meeting the continuing education requirements may be conditioned upon the licensee limiting practice to areas in which the licensee has the required competency, abilities and education.

(2)(a) In accordance with Subsection 58-1-203(1)(g) and 58-55-302.5(2)(e)(i), the Division may grant continuing education credit to a licensee for volunteering as a subject-matter expert in the review and development of licensing exams for the licensee's profession.

(b) Subject to specific limitations established by rule by the Division, in collaboration with a licensing board, or the Construction Services Commission, this volunteer continuing education credit shall:

(i) apply to the license period or periods during which the volunteer service was provided;

(ii) be granted on a 1:1 ratio, meaning that for each hour of attendance, the licensee may receive one hour of credit;

(iii) be deemed "core", "classroom", or "live" credit, regardless of whether the licensee attended meetings in person or electronically; and

(iv) at the licensee's discretion, all or part of the credit hours may be counted towards any law or ethics continuing education requirements.

(c) The licensee shall be responsible for maintaining information with respect to the licensee's volunteer services to demonstrate the services meet the requirements of this subsection.

(3) In accordance with Section 58-13-3, a health care professional licensee may fulfill up to 15% of the licensee's continuing education requirements by providing volunteer services at a qualified location, within the scope of the licensee's license, earning one hour of continuing education credit for every four documented hours of volunteer services.

R156-1-308f. Denial of Renewal of Licensure - Classification of Proceedings - Conditional Renewal of Licensure During Adjudicative Proceedings - Conditional Initial, Renewal, or Reinstatement Licensure During Audit or Investigation.

(1) When an initial, renewal or reinstatement applicant under Subsections 58-1-301(2) through (3) or 58-1-308(5) or (6)(b) is selected for audit, ~~or~~ is under investigation, or is pending inspection, the Division may conditionally issue an initial license to an applicant for initial licensure, or renew or reinstate the license of an applicant pending the completion of the audit, ~~or~~ investigation or inspection.

(2) The undetermined completion of a referenced audit, ~~or~~ investigation or inspection, rather than the established expiration date, shall be indicated as the expiration date of a conditionally issued, renewed, or reinstated license.

(3) A conditional issuance, renewal, or reinstatement shall not constitute an adverse licensure action.

(4) Upon completion of the audit, ~~or~~ investigation, or inspection, the Division shall notify the initial license, renewal, or reinstatement applicant whether the applicant's license is unconditionally issued, renewed, reinstated, denied, or partially denied or reinstated.

(5) A notice of unconditional denial or partial denial of licensure to an applicant the Division conditionally licensed, renewed, or reinstated shall include the following:

(a) that the applicant's unconditional initial issuance, renewal, or reinstatement of licensure is denied or partially denied and the basis for such action;

(b) the Division's file or other reference number of the audit or investigation; and

(c) that the denial or partial denial of unconditional initial licensure, renewal, or reinstatement of licensure is subject to review and a description of how and when such review may be requested.

R156-1-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession while an investigation or inquiry into allegations of unprofessional or unlawful conduct is in progress or after a charging document has been filed against the applicant or licensee alleging unprofessional or unlawful conduct;

(2) practicing a regulated occupation or profession in, through, or with a limited liability company which has omitted the words "limited company," "limited liability company," or the abbreviation "L.C." or "L.L.C." in the commercial use of the name of the limited liability company;

(3) practicing a regulated occupation or profession in, through, or with a limited partnership which has omitted the words "limited partnership," "limited," or the abbreviation "L.P." or "Ltd." in the commercial use of the name of the limited partnership;

(4) practicing a regulated occupation or profession in, through, or with a professional corporation which has omitted the words "professional corporation" or the abbreviation "P.C." in the commercial use of the name of the professional corporation;

(5) using a DBA (doing business as name) which has not been properly registered with the Division of Corporations and with the Division of Occupational and Professional Licensing;

(6) failing, as a prescribing practitioner, to follow the "Model Policy for the Use of Controlled Substances for the Treatment of Pain", 2004, established by the Federation of State Medical Boards, which is hereby adopted and incorporated by reference;

(7) failing, as a prescribing practitioner, to follow the "Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain", July 2013, adopted by the Federation of State Medical Boards, which is incorporated by reference; ~~[-or]~~

(8) violating any term, condition, or requirement contained in a "diversion agreement", as defined in Subsection 58-1-404(6)(a);

(9) failing, as a health care provider, to follow the health care claims practices of Subsection 31A-26-301.5(4), in violation of Subsection 58-1-508(2); or

(10) failing, as a provider offering telehealth services, to comply with any term, condition, or requirement contained in Section 26-60-103 or Section R156-1-601.

R156-1-502. Administrative Penalties.

(1) In accordance with Subsection 58-1-401(5) and Section 58-1-502, except as otherwise provided by a specific chapter under Title R156, the following fine schedule shall apply to citations issued under the referenced authority:

TABLE

FINE SCHEDULE

FIRST OFFENSE

Violation	Fine
58-1-501(1)(a)	\$ 500.00
58-1-501(1)(c)	\$ 800.00
58-1-501(2)(o)	\$ 0 - \$250.00

58-1-508(2) \$ 250.00

SECOND OFFENSE

58-1-501(1)(a)	\$1,000.00
58-1-501(1)(c)	\$1,600.00
58-1-501(2)(o)	\$251.00 - \$500.00
<u>58-1-508(2)</u>	<u>\$ 500.00</u>

THIRD OFFENSE

Double the amount for a second offense with a maximum amount not to exceed the maximum fine allowed under Subsection 58-1-502(2)(j)(iii).

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor.

(3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(4) An investigative supervisor or chief investigator may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

R156-1-601. Practice of Telehealth.

In accordance with Section 26-60-103 and Subsection 26-60-104(1):

(1) Definitions. In addition to the definitions in Title 58 and Title R156, as used in this Section:

(a) "Asynchronous store and forward transfer" means the same as defined in Subsection 26-60-102(1).

(b) "Distant site" means the same as defined in Subsection 26-60-102(2).

(c) "Originating site" means the same as defined in Subsection 26-60-102(3).

(d) "Patient" means the same as defined in Subsection 26-60-102(4).

(e) "Provider" means the same as defined in Subsection 26-60-102(5)(b) (an individual licensed under Title 58 to provide health care), and shall include an individual who:

(i) is required to be licensed under Title 58 if located in Utah; or

(ii) is exempt from licensure pursuant to Title 58.

(f) "Provider-patient relationship" means a relationship in which a provider:

(i) provides a professionally appropriate evaluation and diagnosis of the patient consistent with the provider's applicable standard of care;

(ii) informs the patient that the patient's condition would benefit from treatment through telehealth services, and provides the patient an explanation and comparison of any professionally advisable alternatives to telehealth services;

(iii) acquires written informed consent from the patient as required by the applicable laws, rules, regulations, and standards of care; and

(iv) has an ongoing legal obligation to provide continuing care for the patient as it relates to the condition for which telehealth services were provided, that includes being available and having a facility or alternative means convenient and accessible to the patient for appropriate follow-up care as needed.

(g) "Synchronous interaction" means the same as defined in Subsection 26-60-102(6).

(h) "Telehealth services" means the same as defined in Subsection 26-60-102(7).

(i) "Telemedicine services" means the same as defined in Subsection 26-60-102(8).

(2) Scope of Practice.

(a) In accordance with Subsections 26-60-103(1)(a) and (2), and Subsection R156-1-601(1)(e), an unlicensed provider may offer telehealth services only when:

(i) acting within the scope of the provider's profession under Title 58, including the stated circumstances and limitations of Section 58-1-307; and

(ii) in compliance with all other applicable laws, rules, and regulations regarding the practice of their Title 58 profession.

(b) In accordance with Subsection 26-60-103(1)(a)(ii), the same standards of practice as those applicable in traditional health settings shall include the following:

(i) If a provider offering telehealth services does not have an established provider-patient relationship with the patient, the provider shall establish a provider-patient relationship by synchronous interaction in accordance with the applicable standard of care.

(ii) Nothing in this section shall prohibit electronic communications:

(A) between a provider and a patient with a preexisting provider-patient relationship;

(B) between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;

(C) between a provider and a patient where the provider is taking a call on behalf of another provider in the same community who has a provider-patient relationship with the patient; or

(D) in an emergency, which as used in this section, means a situation in which there is an occurrence that poses an imminent threat of a life-threatening condition or severe bodily harm.

(3) Informed Consent.

(a) A patient's signed informed consent for the use of telehealth services shall be obtained, and it is an element of the provider-patient relationship.

(b) The signed informed consent shall include the following:

(i) identification of the patient and provider;

(ii) identification of the provider's credentials;

(iii) a description of the types of transmission (electronic communication or information technology) permitted using telehealth technologies;

(iv) a statement that the provider has determined the use of telehealth is appropriate to diagnose and treat the patient;

(v) information and details of security measures taken with respect to the use of telehealth technologies, as well as potential risks to privacy notwithstanding the security measures;

(vi) a hold harmless clause for information lost due to technical failures; and

(vii) a reference to or inclusion of a patient consent form governing release of patient-identifiable information to a third party.

(4) Evaluation and Treatment. In accordance with Subsection 26-60-103(1)(b), treatment based solely on an online questionnaire does not constitute an acceptable standard of care, except as provided in Title 58, Chapter 83, the Online Prescribing, Dispensing and Facilitation Licensing Act.

(5) Prescriptions. A provider shall issue prescription drug orders for a telehealth patient:

(a) in compliance with Title 58, Chapter 82, the Electronic Prescribing Act; and

(b) only after establishing a provider-patient relationship with the patient.

(6) Medical Records. In accordance with Subsection 26-60-103(1)(e):

(a) A provider offering telehealth services shall generate and maintain medical records for each telehealth patient in compliance with applicable state and federal laws, rules, and regulations, including:

(i) the Health Insurance Portability and Accountability Act (HIPAA), P.L. 104-191 (1996); and

(ii) the Health Information Technology For Economic and Clinical Health Act (HITECH), P.L. 111-115 (2009).

(b) Medical records shall be accessible to other providers and to the patient in accordance with applicable laws, rules, and regulations.

KEY: diversion programs, licensing, supervision, evidentiary restrictions

Date of Enactment or Last Substantive Amendment: [April 11,

]2017

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Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a);
58-1-308; 58-1-501(2)